IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.4245 of 2007.
Decided on August 03, 2009.

Hari Ram Sharmat and others.

.. Petitioners

VERSUS

Narender Kaur.

.. Respondent

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

PRESENT **Mr.A.S.Suller, Advocate,**
for the petitioners.

M.M.S. BEDI, J. (ORAL)

Vide impugned order, the lower appellate Court has permitted the plaintiff-respondent to pursue her suit as a pauper by setting aside the order passed by the trial Court, dismissing the application of the plaintiff-respondent under Order 33 Rule 1 CPC.

Counsel for the petitioners has contended that it is established on record that husband of the plaintiff-respondent is a retired Constable from CRPF, and that the application deserves rejection under Order 33 Rule 5 (f) CPC, as the allegations made by the plaintiff-respondent in the application indicate that it was barred

by time.

I have heard counsel for the petitioners.

The lower Appellate Court relying on the ratio of few judgments of various High Courts has arrived at the conclusion that it is the individual property of the plaintiff which is required to be considered while deciding the application under Order 33 Rule 1 CPC, and that prima facie the suit has been filed within a period of limitation.

No ground is made out for interference. Petition is dismissed. However, dismissal of this revision petition will not prejudice, in any manner, the rights of the petitioners, to raise the plea of limitation before the trial Court.

(M.M.S.BEDI)
JUDGE

August 03, 2009.
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